

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GEORGE W. GIBBS,

Petitioner,

vs.

ROBERT LEGRAND,

Respondent.

2:11-cv-00750-KJD-RJJ

ORDER

This is an action on a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner George W. Gibbs, a Nevada prisoner, has now paid the required filing fee (ECF No. 11) and his petition shall be filed. He has also filed numerous motions including two Notices of Voluntary Dismissal (ECF No. 2 and 5), two motions for leave to file an amended petition (ECF Nos. 3 and 6), a motion for appointment of counsel and investigator (ECF Nos. 7 and 8), a Motion for Leave to File Additional Pages (ECF No. 9) and a Motion for Court to Find “Good Cause” for Petitioner’s Late Filing (ECF No. 10). Most recently, petitioner has filed an amended application to proceed in *forma pauperis* (ECF No. 16). This order will address the various notices and motions.

I. Notices of Voluntary Dismissal (ECF Nos. 2 and 5)

These documents indicate petitioner’s desire to replace his original petition with an amended petition. They do not state a true intention to dismiss the petition and the action. As a result, the Notices shall be disregarded.

II. Motion for Appointment of Counsel and Investigator (ECF Nos. 7, 8 and 13)

1 The Court will grant petitioner's Motion for Appointment of Counsel. The petition filed
2 in this action includes 13 claims and has attached a large volume of exhibits and supporting
3 documentation, suggesting that it may be a relatively complex petition. Furthermore, petitioner faces
4 a lengthy sentence: multiple consecutive terms of life in prison with the possibility of parole plus
5 additional terms of years.

6 Therefore, the Federal Public Defender for the District of Nevada (FPD) shall be
7 appointed to represent petitioner. If the FPD is unable to represent petitioner, due to a conflict of interest
8 or other reason, then alternate counsel for petitioner shall be located, and the Court will enter a separate
9 order appointing such alternate counsel. In either case, counsel will represent petitioner in all future
10 federal proceedings relating to this matter (including subsequent actions) and appeals therefrom, unless
11 allowed to withdraw.

12 III. Miscellaneous Motions

13 The Court will grant the motions to amend to permit counsel to file an amended petition.
14 The Court will deny the remaining motions as moot and will direct appointed counsel to address the
15 issues raised therein in the normal course of these proceedings.

16 **IT IS THEREFORE ORDERED** that the Clerk shall detach and file the petition (ECF
17 No. 1-1).

18 **IT IS FURTHER ORDERED** that petitioner's Motions for Appointment of Counsel
19 (ECF No. 7, 8 and 13) are **GRANTED**. The Federal Public Defender is appointed to represent
20 Petitioner.

21 **IT IS FURTHER ORDERED** that the Clerk shall **ELECTRONICALLY SERVE** the
22 Federal Public Defender for the District of Nevada (FPD) a copy of this Order, together with a copy of
23 the petition for writ of habeas corpus and its attachments (ECF No. 1-1). The FPD shall have thirty (30)
24 days from the date of entry of this Order to file a notice of appearance or to indicate to the Court its
25 inability to represent petitioner in these proceedings.

1 **IT IS FURTHER ORDERED** that the Clerk shall **RESUBMIT** this case to the Court
2 after the FPD has appeared as counsel for petitioner, after the FPD has indicated its inability to represent
3 petitioner, or after thirty (30) days from the entry of this Order, whichever occurs first.

4 **IT IS FURTHER ORDERED** that, after counsel has appeared for petitioner in this case,
5 the Court will issue a scheduling order, which will, among other things, set a deadline for the filing of
6 a First Amended Petition.

7 **IT IS FURTHER ORDERED** that the motions for leave to file an amended petition
8 (ECF Nos. 3 and 6) are **GRANTED** as discussed above. All other pending motions (ECF Nos. 9, 10, 14,
9 15 and 16) are **DENIED AS MOOT**. Counsel for petitioner shall be permitted to address any issues
10 as to length of the petition or timeliness as they arise in the normal proceedings of the case.

11 **IT IS FURTHER ORDERED** that petitioner shall not submit and the Clerk shall not
12 accept for filing any additional pro se motions or pleadings submitted by petitioner while he is
13 represented by counsel.

14 DATED: June 13, 2011



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17 UNITED STATES DISTRICT JUDGE
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